

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

Case # 12-CR-6156-FPG

v.

DECISION & ORDER

KEVIN CYSTER,

Defendant.

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Defendant Kevin Cyster stands before the Court charged by a Superseding Indictment with Conspiracy to Defraud the United States and to Commit Theft of Government Funds in violation of Title 18 U.S.C. § 371; False Claims to the United States in violation of Title 18 U.S.C. §§ 287 and 2; and Interstate and Foreign Transportation of Money Taken by Fraud in violation of Title 18 U.S.C. §§ 2314 and 2. ECF No. 34. By text order of Hon. Charles J. Siragusa, United States District Judge, entered on November 13, 2012, this case was referred to United States Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B), to file a Report and Recommendation regarding disposition of pretrial matters. ECF No. 8.

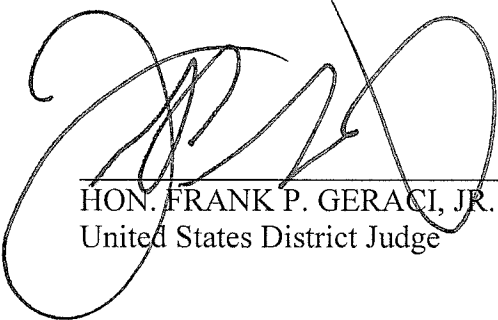
On October 16, 2014, the Magistrate Judge issued a written Report and Recommendation (ECF No. 79), recommending that this Court determine Defendant to be competent to stand trial based on the following: (1) receipt of a report containing the results of Defendant's psychiatric examination, opining that Defendant was competent to stand trial; (2) both counsel for the government and for the Defendant stated their intentions not to contest the report or the opinions contained therein; (3) both counsel for the government and for the Defendant requested the Court adopt the finding that Defendant is competent to stand trial; and (4) pursuant to 18 U.S.C. §

4241(d), the finding by a preponderance of the evidence that Defendant is not presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he would be unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. In accordance with 28 U.S.C. § 636(b)(1), the Magistrate Judge further ordered any Objections to the Report and Recommendation to be filed within fourteen (14) days after receipt of a copy of the Report and Recommendation (ECF No. 79).

The statutory period for filing such Objections has expired, and the Court has not received any filed Objections to the Report and Recommendation. After reviewing all matters submitted, I find no reason to alter or modify any of the findings and conclusions contained in the Report and Recommendation. Accordingly, the Court accepts and adopts the written Report and Recommendation filed by United States Magistrate Judge Marian W. Payson (ECF No. 79). Pursuant to 18 U.S.C. § 4241(d), the Court hereby finds Defendant Kevin Cyster to be competent to stand trial.

IT IS SO ORDERED.

Dated: November 3, 2014  
Rochester, New York



HON. FRANK P. GERACI, JR.  
United States District Judge